

COUNTY OF YORK

MEMORANDUM

DATE: February 19, 2004 (BOS Mtg. 3/2/04)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. ZT-81-04, York County Board of Supervisors: Performance Standards for Auto Related Commercial Uses

This application has been sponsored by the Board of Supervisors as a result of its discussion of the report and recommendations of the Route 17 Revitalization Committee concerning the need for enhanced performance standards applicable to certain automobile-related uses. The proposed amendments would accomplish the following:

- Require Special Use Permits for all Convenience Stores, Gas Stations, Car Washes and New and Used Car Sales establishments;
- Establish requirements for the removal of tanks, pump islands, canopies, etc. associated with gas stations or car washes that have been inactive/out of business for more than nine (9) consecutive months (or 12 months, as recommended by the Planning Commission);
- Clarify the setback and screening requirements for vehicular use areas on commercial development sites;
- Clarify and strengthen the requirements pertaining to lighting and signage on gasoline station canopies and the screening of vehicle bays at auto-related uses.

Considerations

1. These proposed amendments are intended to address issues raised by the Route 17 Revitalization Committee concerning land uses with potential adverse impacts on the character of the corridor. In its discussions, the Committee recognized that Route 17 has a distinct orientation toward auto-oriented businesses and that some of these businesses can have characteristics that are incompatible with their surroundings, traffic patterns on adjacent roadways, or the character of the corridor. All of these uses (convenience stores, gas stations, car washes, and automobile sales establishments) are currently permitted as a matter of right in the GB-General Business District, which is the zoning classification that applies to most of the Route 17 corridor. Although the Zoning Ordinance contains a number of performance and site design standards that apply to all of these uses, there are examples of each type of use along the corridor that could have benefited from the site-specific review and consideration that is associated with the Special Use Permit process.
2. Until the comprehensive Zoning Ordinance amendments in 1995, convenience stores and gas stations were allowed only by Special Use Permit in the General Business (formerly General Commercial) zoning district. The premise behind this requirement (and the current proposal) was that such uses needed the site-specific, case-by-case review afforded by the Special Use Permit process due to several characteristics including, but not limited to:

- Appropriateness of the site – The Special Use Permit process allows the Planning Commission and Board of Supervisors to determine specifically whether or not a particular site is appropriate for a use. Clearly, there are examples of existing or former convenience stores and gas stations along the Route 17 corridor that are not (were not) ideally suited for their particular locations. In several situations, it is likely that no matter what the conditions, the use should not have been located where it was. In other cases, the adverse impacts associated with a use could, perhaps, have been mitigated through the establishment of supplementary Special Use Permit conditions, such as those discussed in the following paragraphs.
- Traffic impacts – Both convenience stores and gas stations tend to generate significant traffic movements during peak conditions. While traffic impact analyses are required as part of the site plan review process, the Special Use Permit process provides an opportunity to consider supplementary conditions that could help mitigate future traffic issues or, alternatively, to determine that a particular site should not be approved for such a use because of traffic concerns.
- Light/glare/noise – Again, although there are performance standards in the Zoning Ordinance pertaining to light and noise impacts, they are very generic and sometimes do not provide the site-specific attention necessary to ensure that a use can be located without adverse impacts on surrounding properties. The Special Use Permit process provides an opportunity to tailor performance standards to the specific needs of a site, which is something that staff cannot do as an administrative action.
- Landscaping/site design – Basic ordinance requirements address minimum landscaping and site design issues. However, these standards cannot be adjusted administratively by staff to recognize the unique characteristics and needs of a particular site. The ability to do so can be particularly important where such uses are proposed for sites adjacent to residential areas, for “in-fill” development sites, or for highly visible “gateway” sites.
- Accessory gas sales – Requiring Special Use Permit review for all convenience stores will avoid the dilemma of determining whether an associated gasoline sales component is an “accessory” or “principal” use. This issue has been a point of contention in several convenience store developments in recent years (i.e., is the use a convenience store with accessory gas sales [no SUP required] or a gas station with accessory convenience store [SUP required in certain districts]?). Staff recommends that both uses, and the various combinations of both, be subject to Special Use Permit review.
- Future Use / Maintenance – One of the major factors prompting this application was the concern by the Route 17 Revitalization Committee and the Board about the condition convenience store and gas station sites are sometimes left in after the use has gone out of business. In the short-term, vacancies are bound to occur. However, there are several notable examples

along the Route 17 corridor where pumps, pump islands, canopies and other features associated with a former convenience store/gas station use have remained in place and in poor condition for years. These abandoned facilities have had negative impacts on surrounding properties and on the corridor as a whole and, in some cases, their structural condition represents a potential safety concern. To address these issues, the proposed text amendments borrow from a standard condition in use in the City of Newport News under which pumps, pump islands, tanks and canopies must be removed when the fuel dispensing activity has been inactive for a period exceeding nine (9) months. The objective of this requirement is to ensure that such sites are restored to an environmentally sound, structurally safe and aesthetically compatible condition that will not detract from the corridor. This condition is shown as proposed Section 24.1-477 (h) in the attached draft. Although the Newport News condition sets the abandonment threshold at nine (9) months, the Planning Commission and staff believe that allowing a full year (12 months) for re-establishment of the fuel dispensing activity would better accommodate the time and effort often necessary to sell or re-lease a commercial establishment.

3. Car wash facilities, when abandoned for extensive periods of time, can have the same detrimental impacts on a commercial corridor and adjoining properties. Accordingly, and again taking the lead from the City of Newport News, proposed Section 24.1-478 (d) would establish a requirement for removal of all car wash equipment and the enclosing structure upon a lengthy abandonment. As with the gas stations, the Planning Commission and staff recommend that the abandonment threshold be set at 12 months, rather than 9 months.

In addition, for both the gas stations and car washes, the Planning Commission and staff recommend inclusion of a condition (see pages 8 and 9 of Ord. 04-02) that would require the property owner to execute and record a maintenance agreement specifying his/her obligations to remove the applicable pumps/tanks/equipment after twelve (12) months of business inactivity and within 90 days of notice by the County. An additional feature of the agreement is that it would confirm the County's ability to enter the property to perform the required equipment removal, at the owner's expense, in the event of his/her default on the obligation.

4. Other aspects of this proposed amendment package include:
 - Section 24.1-306, Category 12, No. 5a. – Proposes that “new and used vehicle sales” be authorized only by Special Use Permit. This recommendation also stems from the discussion of the Route 17 Revitalization Committee and its interest in ensuring that auto-oriented businesses receive site-specific design review. Automobile sales establishments have large expanses of impervious surfaces, are often brightly lighted, vehicle displays can sometimes create an undesirable streetscape, and when accessory servicing and repair is a component of the operation, the facility can often take on a completely different (and incompatible) land use character. These site design and layout issues can be more appropriately addressed through the Special Use Permit process

rather than administrative review.

- Sections 24.1-466(a) and 475(a) – These sections are proposed to be modified to specifically indicate that circulation drives and stacking spaces are subject to the 25-foot or 35-foot setback and screening requirement from residential property. Staff believes that maintaining the setback adjacent to circulation drives is as important, if not more so, as that for parking spaces since the circulation drives could have a constant stream of traffic that could be more offensive to an adjacent residential property than parked and stationary vehicles. The mention of stacking spaces is a clarification since it is not apparent, without referring to the parking standards contained in Article 6, that stacking spaces are considered to be “parking spaces.”
- Sections 24.1-466(c) and 475(b) and (d) – These sections are proposed to be modified to supplement the general lighting standards contained in Section 24.1-260(f). The proposed language reiterates the current requirement for full-cutoff fixtures but also contains additional language to require *fully shielded or recessed luminaries with horizontal-mount flat lenses* and to require any canopy lighting to be *full-cutoff or recessed fixtures*. This proposal is considered particularly important given the concerns that have been expressed in recent years about lighting levels and glare from gas station canopies along the County’s commercial corridors.
- Sections 24.1-466(d) and 475(c) – These sections are proposed to be modified to further define volume limits for outdoor speaker/music systems.
- Section 24.1-475(d) – This section is proposed to be modified to prohibit signage on pump canopies. Opportunities are available under the general sign regulations for building mounted and freestanding signage on all commercial sites. Pump canopies (which can have a lesser setback than principal buildings) serve essentially as an additional freestanding sign opportunity for gas stations/convenience stores that is not afforded to other commercial uses. This provision is recommended as a way of equalizing the standards as well as responding to the Route 17 Revitalization Committee’s recommendations to limit sign clutter on the corridor.
- Section 24.1-475(e) – This section is proposed to be clarified to ensure that *semi-enclosed vehicle bays* are also subject to the screening requirement applicable to garage bay doors. For example, this addition will ensure that open car wash bays are subject to a screening/buffering requirement.

Planning Commission Recommendation

The Planning Commission considered this application at a duly advertised public hearing conducted at its February 11, 2004 meeting. Subsequent to the public hearing, at which there were no speakers, the Commission voted 5:0 (Messrs. Simasek and Hamilton absent) to

recommend approval subject to several modifications / clarifications:

- Setting the time limit for inactivity at 9 months, rather than 12, as discussed in Consideration No. 2, above;
- Inclusion of a 90-day time limit for action (removal) by the property owner, as discussed in Consideration No. 3, above;
- Inclusion of language to reference “all applicable state and federal environmental protection and mitigation requirements” relative to removal of tanks, pumps, etc.

In addition, the Commission asked what the procedure would be in the event there was a pending purchase or lease contract for an affected property and staff noted that it could be addressed in the proposed agreement. However, after further reflection on this issue, staff believes that it should be addressed in the ordinance. Accordingly, the language shown on pages 8 and 9 to allow the removal requirement to be stayed for a maximum of six (6) months in the event there is a valid pending contract is suggested.

County Administrator Recommendation

The proposed amendments are intended to address issues discussed by the Route 17 Revitalization Committee in its review of the corridor and potential improvement strategies. I believe that these amendments will enhance opportunities for the Planning Commission and Board of Supervisors to ensure that various high-impact commercial uses are appropriately located along the Route 17 and other commercial corridors in the County and that appropriate attention is given to impacts on adjoining properties, both during the business operation and in the event business activity ceases. Therefore, I recommend that the Board approve this application through the adoption of proposed Ordinance No. 04-02.

Carter/3337:jmc

Attachments

- Excerpts – Planning Commission Minutes, February 11, 2004
- Proposed Ordinance No. 04-02